

**STATE WATER RESOURCES CONTROL BOARD  
BOARD MEETING SESSION– DIVISION OF WATER QUALITY  
APRIL 6, 2021**

**ITEM 4**

**SUBJECT**

CONFIRMATION THAT THE “STATE WETLAND DEFINITION AND PROCEDURES FOR DISCHARGES OF DREDGED OR FILL MATERIAL TO WATERS OF THE STATE” (1) ARE IN EFFECT AS STATE POLICY FOR WATER QUALITY CONTROL FOR ALL WATERS OF THE STATE AND (2) SHALL BE APPLIED ONLY TO WATERS OF THE UNITED STATES VIA THE INLAND SURFACE WATERS AND ENCLOSED BAYS AND ESTUARIES PLAN

**DISCUSSION**

On January 26, 2021, the Superior Court in *San Joaquin Tributaries Authority v. California State Water Resources Control Board* issued a judgment and writ “enjoining the State Water Board from applying, via the Water Quality Control Plan for Inland Surface Waters and Enclosed Bays [and Estuaries], the ‘State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State’ [(“Procedures”)] adopted by the State Water Board on April 2, 2019, to waters other than those for which water quality standards are required by the Federal Clean Water Act (33 U.S.C. Section 1251 et seq.).” The Superior Court decision addresses only the scope of the State Water Board's authority to adopt water quality control plans under Water Code section 13170. It does not restrict the State Water Board's authority to regulate the discharge of dredged or fill material to all waters of the state pursuant to the Board's other regulatory tools, including its authority to adopt state policy for water quality control under Water Code section 13140. In response to the Superior Court's decision, the State Water Board noticed a hearing on April 6, 2021 where the Board will consider the adoption of a resolution confirming that the Board's April 2, 2019 action relied, in part, on Water Code section 13140 and that the Procedures are therefore effective for all waters of the state as state policy for water quality control.

**POLICY ISSUE**

Should the Board adopt a resolution confirming that the its April 2, 2019 action relied, in part, on Water Code section 13140 and that the Procedures are therefore effective for all waters of the state as state policy for water quality control?

**FISCAL IMPACT**

None. The Board's April 2, 2019 action contemplated application of the Procedures to all waters of the state.

**REGIONAL BOARD IMPACT**

None. The Board's April 2, 2019 action contemplated application of the Procedures to all waters of the state.

**STAFF RECOMMENDATION**

That the State Water Board adopt the proposed resolution confirming that the Board's April 2, 2019 action relied, in part, on Water Code section 13140 and that the Procedures are therefore effective for all waters of the state as state policy for water quality control.